



July 13, 1999

Ms. Rosalinda O. Fierro
Paralegal
Records Department
Office of the District Attorney
P.O. Box 1748
Austin, Texas 78767

OR99-1934

Dear Ms. Fierro:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 125983.

The Travis County District Attorney (the "district attorney") received a request for information pertaining to a certain incident that occurred at the East First Grocery. You state that the district attorney is releasing to the requestor "front page offense report information." You assert that the requested information is excepted from required public disclosure based on sections 552.101, 552.103, 552.108 and 552.130 of the Government Code. You have submitted the information at issue for our review.

As you point out, the requested information includes information that appears to have been generated by the Texas Crime Information Center ("TCIC") or the National Crime Information Center ("NCIC"). Title 28, Part 20 of the Code of Federal Regulations governs the release of criminal history information which states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to criminal history information it generates. *Id.* Section 411.083 of the Government Code deems confidential criminal history records that the Department of Public Safety (the "DPS") maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov't Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain criminal history record information; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose, *id.* § 411.089(b)(1). Other entities specified in Chapter 411 of the Government are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities

may not release the information except as provided by Chapter 411. *See generally id.* §§ 411.090 - .127. Thus, any criminal history record information generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* Open Records Decision No. 565. Furthermore, any criminal history record information obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F.

Section 552.108 of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure “if release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). You inform us that the requested information pertains to a pending case. We, therefore, believe that the release of the information “would interfere with the detection, investigation, or prosecution of crime.” *Id.*

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Additionally, we note that the submitted information contains court-filed documents. Thus, with the exception of the basic front page offense and arrest information, which you indicate the district attorney will release, and the court-filed documents, you may withhold the requested information from disclosure based on section 552.108(a)(1).

You also raise section 552.130 of the Government Code, which reads as follows

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state;

(2) a motor vehicle title or registration issued by an agency of this state; or

(3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

You state that the Austin Police Department reports contain driver's license numbers. However, you did not mark these numbers in the submitted information nor were we able to locate the numbers. In the event that we overlooked the numbers, we conclude that the district attorney must withhold from disclosure any driver's license numbers that appear in the requested information based on section 552.130.

In light of our conclusions above, we need not consider your other claimed exceptions. We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/eaf

Ref.: ID# 125983

Encl. Submitted documents

cc: Mr. B. Keith Ingram
Locke Liddell & Sapp L.L.P.
100 Congress Avenue, Suite 300
Austin, Texas 78701-4800
(w/o enclosures)